IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

WP(C).No. 23818 of 2005(I)

AGAINST THE ORDER DATED 31/07/04 IN EP.25/98 IN LAR.58/1987 of PRINCIPAL SUB COURT,KOCHI

.....

PETITIONER:

LUCY, W/O.JOSEPH KONOTH, KOCHUPALLY ROAD
THOPPUMPADY, KOCHI 5.

BY ADV. SRI.C.S.ULLAS
SMT.K.BINU MOLE

RESPONDENTS:

---

1. THE DISTRICT COLLECTOR, CIVIL STATION,
KAKKANAD, ERNAKULAM.

2. THE SPECIAL TAHSILDAR (LA), GCDA, KADAVANTHRA,
KOCHI 20.

3. THE DEPUTY TAHSILDAR (RR),
TALUK OFFICE, KOCHI, FORT KOCHI.

BY GOVERNMENT PLEADER SRI.SHYSON P.MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.23818/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – TRUE COPY OF EP.25/98

EXT.P2 – TRUE COPY OF OBJECTION OF JD DT.29.5.99

EXT.P3 – TRUE COPY OF LETTER DT.31.5.99 BY AGP TO R1.

EXT.P4 – TRUE COPY OF ORDER IN EP.25/98 IN LAR.58/87 DT.25.5.2000

EXT.P5 – TRUIE COPY OF ORDER IN CRP.2467/2000 DT.25.5.01.

EXT.P6 – TRUE COPY OF BALANCE STATEMENT DT.22.22.02 BY PETR.

EXT.P7 – TRUE COPY OF DO. DT.8.4.03 BY R2.

EXT.P8 – TRUE COPY OF DO. DT.12.12.03 BY R2.

EXT.P9 – TRUE COPY OF OBJECTION TO BALANCE STATEMENT DT.20.1.04 BY PETR.

EXT.P10 – TRUE COPY OF ORDER IN EO.25/98 IN LAR.58/87 DT.31.7.04 OF PRL. SUB JUDGE, KOCHI.

EXT.P11 – TRUE COPY OF RULE 34 NOTICE DT.1.7.05 ISSUED BY R3.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

.....

W.P.(C)No.23818 OF 2005

.....

DATED THIS THE 7th AUGUST, 2007

J U D G M E N T

The learned counsel for the petitioner seeks time today also. But, as indicated by me in my order dated 6.7.2007, so long as Ext.P10 stands, the challenge against revenue recovery proceedings is liable to fail. It is seen on a reading of Ext.P10 that the implications of the judgment of the Constitution Bench of the Supreme Court in **Sunder v. Union of India** (2001 (3) KLT 489) have been taken into account by the learned Subordinate Judge. But, as for the principles of appropriation to be followed when part-payments are being made towards decree-debts in land acquisition cases, it is the judgment of this Court in **Mathunni Mathai v. State of Kerala** (1998 (1) KLT 812) which has been followed by the court below. The Constitution Bench of the Supreme Court has, in **Gurpreet Singh v. Union of India** [(2006) 8 SCC 457], laid down the principles of appropriation to be adopted when part-payments are made towards decree-debts in land acquisition cases. The petitioner is permitted to bring the judgment in **Gurpreet Singh v. Union of India** (supra) to the notice of the learned Subordinate Judge. The learned Subordinate Judge will reconsider Ext.P10 in the light of the principles laid down in **Gurpreet**

Singh's case and, if necessary, pass orders in modification of Ext.P10. The above exercise will be completed within two months of receiving copy of this judgment. The order of stay presently passed will continue, in view of the above direction, for a period of three months from today.

The Writ Petition is disposed of as above. No costs.

(PIUS C.KURIAKOSE, JUDGE)

tgl